

DECLARATORY  
~~Improvement~~ Res. No. 1145-1964

Resolution Adopted: Oct. 21, 1964

Confirmed: Nov. 12, 1964

Bids Received:

Contract Awarded:

Contract and Bond:

Contractor:

Reported Completed:

Assessment Roll Confirmed:  
Feb. 4, 1965

130.208-64

203 Berry Corporation

DECLARATORY RESOLUTION NO. 1145-1964

For the granting of permission to the 203 Berry Corporation to construct, install and maintain over an alley in the City of Fort Wayne above ground multiple storage motor vehicles ramps and for permission to construct, install and maintain foundation footings under the alley and certain sidewalks. Said alley runs in an easterly and westerly direction between Main Street and Berry Street from Clinton Street to Barr Street. Foundation footings are under portions of sidewalks on the south side of Main Street and the east side of Clinton Street.

PLANS ORDERED:

ADOPTED: Oct. 21, 1964

ADVERTISED TO PROPERTY OWNERS: Oct. 23 & 30, 1964

HEARING ON CONFIRMATION: Thurs., Nov. 12, 1964 3:30 p. m.

CONFIRMED: Nov. 12, 1964

ASSESSMENT ROLL ORDERED: Nov. 12, 1964

ASSESSMENT ROLL APPROVED: Jan. 7, 1965

HEARING ON CONFIRMATION  
OF ASSESSMENT ROLL: Thurs., Feb. 4, 1965 3:30 p. m.

NOTICE SERVED: Jan. 22, 1965

ASSESSMENT ROLL CONFIRMED: Feb. 4, 1965

D E C L A R A T O R Y  
R E S O L U T I O N

NO. 1145-1964

WHEREAS, the 203 Berry Corporation, an Indiana corporation, has heretofore submitted a petition to the Board of Public Works of the City of Fort Wayne, Indiana, an Indiana municipal corporation, for permission to construct, install and maintain over an alley in the City of Fort Wayne above-ground multiple-storied motor vehicle ramps and for permission to construct, install and maintain under sidewalks and an alley in the City of Fort Wayne foundation footings, and

WHEREAS, the 203 Berry Corporation is the owner of all of the real estate immediately abutting on both sides of that part of the alley described in such petition and is the owner of the real estate abutting the sidewalks described in such petition, and

WHEREAS, said petition contains certain agreements and undertakings by the 203 Berry Corporation in the event permission is granted, and

WHEREAS, the Board of Public Works of the City of Fort Wayne has determined that the installation, construction and maintenance of such overhead structures and under ground structures petitioned for in said petition of the 203 Berry Corporation would not be detrimental to or inconsistent with the free use of the easement of the public in such sidewalks and alley. That the overhead structure petitioned for would be beneficial to the public by permitting a private passageway over said alley to relieve congestion and traffic on public streets and alleys,

NOW, THEREFORE, the Board of Public Works of the City of Fort Wayne, Indiana, hereby grants to the 203 Berry Corporation

permission to construct, install and maintain above-ground multiple-storied motor vehicle ramps over an alleyway and public easement running in an easterly and westerly direction between Main and Berry Streets in the City of Fort Wayne, Indiana, beginning at a point 49.5 feet from the western terminus of said alleyway with the Clinton Street right of way to a point 110.0 feet from the western terminus of said alleyway with the Clinton Street right of way and for the construction, installation and maintenance to an approximate depth of twenty (20) feet foundation footings in and under the south two (2) feet of the west eighty-three (83) feet of the east-west alley lying between and parallel to Main and Berry Streets and running in an easterly and westerly direction between Clinton and Barr Streets in the said City of Fort Wayne; in and under the north eight (8) feet of the west one hundred ten (110) feet of the east-west sidewalk lying on the north side of Berry Street and parallel to Berry Street and running in an easterly and westerly direction between Clinton and Barr Streets in the City of Fort Wayne, Indiana; in and under the south two (2) feet of the east sixty (60) feet of the west one hundred ten (110) feet of an east-west sidewalk lying on the south side of and parallel to Main Street and running in an easterly and westerly direction between Clinton and Barr Streets in the City of Fort Wayne, Indiana; and under the east three (3) feet of the south one hundred fifty (150) feet of the north - south sidewalk lying on the east side of and parallel to Clinton Street and running in a northerly and southerly direction between Main and Berry Streets in the City of Fort Wayne, Indiana; such permission shall be subject to the agreements and undertakings of the 203 Berry Corporation contained in the petition heretofore filed with the Board of Public Works of the City of Fort Wayne, and shall be noncancel-

cellable by the City of Fort Wayne for so long as the improvements constructed upon the real estate owned by the 203 Berry Corporation shall exist.

Dated this 21 day of October, 1964.

BOARD OF PUBLIC WORKS OF THE  
CITY OF FORT WAYNE, INDIANA

Fred S. Ehrman  
FRED S. EHMAN, CHAIRMAN

George Gable  
GEORGE GABLE

Robert W. Dahman  
ROBERT W. DAHMAN

WHEREAS, 203 Berry Corporation, a corporation organized and existing under and by virtue of the laws of the State of Indiana, is the owner of the following described real estate located in the City of Fort Wayne, County of Allen, State of Indiana:

Lots Number 1, 2, 3, 4, 5, 6, and 7, Rue's Subdivision of Lot 97 Original Plat of City of Fort Wayne, excepting therefrom the West 10 feet thereof appropriated for the widening of Clinton Street; Lot 96 Old (Original) Plat to the City of Fort Wayne and Lot 87 Old (Original) Plat to the City of Fort Wayne.

WHEREAS, 203 Berry Corporation has constructed an office building and garage on said real estate and in connection therewith has secured from the Board of Public Works of the City of Fort Wayne certain rights relative to the construction and maintenance of ramps over the alley separating the parcels of real estate above described and also relative to the installation of footings and appurtenances for the foundations of said office building and garage under the alley and sidewalks on which the above described property abuts, which agreements are of record in Miscellaneous Record Book 237, pages 383 thru 387, and Miscellaneous Record Book 242, pages 31 thru 35 in the Recorder's Office of Allen County, Indiana.

WHEREAS, said ramps, footings, and the alleyways affected thereby are located on Berry Street, Clinton Street, Main Street and the east-west alley between Berry Street and Main Street, running from Clinton Street to Barr<sup>v</sup> Avenue, reference being here made to said recorded agreements for a more particular description of said alley, sidewalk, ramps and footings.

WHEREAS, 203 Berry Corporation desires to indemnify, keep safe and hold harmless the City of Fort Wayne and The Department of Public Works of the City of Fort Wayne against any loss or damages to persons or property occasioned by its construction, installation or maintenance of the ramps, footings, installations, appurtenances, alleyways under said ramps, and other improvements and construction hereinabove mentioned.

NOW, THEREFORE, the 203 Berry Corporation does hereby agree with the Board of Public Works of the City of Fort Wayne, Indiana, and with the City of Fort Wayne, Indiana, as follows:

- I. It will pay, or cause to be paid, all costs of construction, installation, and maintenance of

X

ramps, footings, sidewalks, alleyways under said ramps, and appurtenances thereto, and it does hereby agree to save and hold harmless the Board of Public Works of the City of Fort Wayne and the City of Fort Wayne and indemnify them against any loss or damage to persons or property occasioned by the construction, installation and maintenance herein mentioned.

II. 203 Berry Corporation does further agree to pay all costs of maintenance and repair of said ramps, footings, sidewalks, appurtenances, and alleyways beneath said ramps, and to pay all costs of maintenance and repair of the same necessitated by any future maintenance and repair work hereafter undertaken upon said ramps, footings, appurtenances, sidewalks, and alleyways under said ramps.

III. 203 Berry Corporation does further agree to protect from any and all damage whatsoever occasioned in any way by the construction, installation, and maintenance of said footings, sidewalks, appurtenances, ramps and alleyways under said ramps, of existing overhead and underground utilities located in said alley or under said sidewalks, including specifically, but not limited to, the underground facilities of the City of Fort Wayne, Indiana, and Michigan Electric Company, Northern Indiana Public Service Corporation, General Telephone Company of Indiana, the Western Union Company, and the Fort Wayne City Utilities; and the 203 Berry Corporation further hereby agrees to indemnify and save and hold harmless the said City of Fort Wayne and the Board of Public Works of the City of Fort Wayne and the other said utility companies from and against any and all damage or loss sustained as a result of the construction, installation, maintenance or repair of the footings, sidewalks, ramps, appurtenances, and alleyways under said ramps herein mentioned.

IV. 203 Berry does further agree that this is a continuing guaranty and undertaking to maintain, repair and to keep maintained and repaired any and all ramps, footings, sidewalks, and alleyways under said ramps, and appurtenances thereto, and to restore and maintain and to continue to restore and maintain the surface thereof to a condition equivalent to, or better than, that existing at the time of installation and maintenance of said ramps, footings, sidewalks, and alleyways under said ramps and appurtenances.

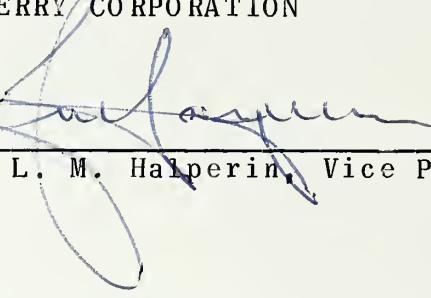
The considerations for this undertaking, agreement, and the covenants herein contained, are the granting of the rights and privileges

heretofore given by the Board of Public Works of the City of Fort Wayne and the City of Fort Wayne, and other good and valuable considerations, the receipt of all of which 203 Berry Corporation does herewith acknowledge.

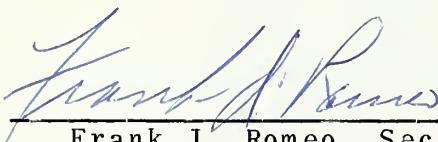
IN WITNESS WHEREOF, 203 Berry Corporation has caused this instrument to be executed by and through its duly authorized officers, this the 15th day of October, 1964.

203 BERRY CORPORATION

By:

  
L. M. Halperin, Vice President

ATTEST:

  
\_\_\_\_\_  
Frank J. Romeo, Secretary

STATE OF TENNESSEE

COUNTY OF SHELBY

Before me, the undersigned, a Notary Public in and for said County and State, this 15th day of October, 1964, personally appeared L. M. Halperin and Frank J. Romeo, Vice President and Secretary respectively of 203 BERRY CORPORATION, and acknowledged the execution of the above and foregoing as their voluntary acts and deeds on behalf of said corporation.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: My Commission Expires January 5, 1965

P E T I T I O N

The 203 BERRY CORPORATION, an Indiana corporation, petitions the BOARD OF PUBLIC WORKS of the CITY OF FORT WAYNE, INDIANA, an Indiana municipal corporation, for permission to construct above-ground multiple-storied motor vehicle ramps over an alley herein described below in the City of Fort Wayne, Indiana, and for permission to construct and install under sidewalks and an alley hereinbelow described footings for a building foundation in the City of Fort Wayne, Indiana.

The petitioner, 203 Berry Corporation, represents that it is the owner of the following described real estate located in Fort Wayne, Allen County, Indiana, to-wit:

Lots 1, 2, 3, 4, 5, 6, and 7, Rue's Sub-division of Lot 97, Original Plat of the City of Fort Wayne, excepting therefrom the West 10 feet thereof appropriated for the widening of Clinton Street;

Lot 87 in the Original Plat of the Town (now City) of Fort Wayne, Indiana;

Lot 96 in the Original Plat of the Town (now City) of Fort Wayne, Indiana;

and that such real estate is the only real estate abutting the alley and sidewalks described hereinbelow.

The 203 Berry Corporation, petitioner herein, represents that it desires to construct and maintain on said real estate hereinabove described a commercial building and parking garage and that the plans for such building call for the building to be constructed on both sides of an alley running east and west between Clinton and Barr Streets and parallel to Main and Berry Streets and for such two sections of said building to be connected by multi-storied above-ground motor vehicle ramps. The plans also call for founda-

tion footings which must of necessity extend under said alley and under sidewalks adjacent to and contiguous to the real estate owned by the petitioner herein, 203 Berry Corporation.

The above-ground multiple-storied motor vehicle ramps are proposed to be constructed over the alleyway and public easement running in an easterly and westerly direction from Clinton Street to Barr Street between and parallel to Main and Berry Streets of The City of Fort Wayne, Indiana, beginning at a point 49.5 feet from the western terminus of said alleyway with the Clinton Street right of way to a point 110.0 feet from the western terminus of said alleyway with Clinton Street right of way. The footings called for are to be constructed, installed, and maintained to an approximate depth of twenty (20) feet in and under the south two (2) feet of the west eighty-three (83) feet of the east-west alley lying between and parallel to Berry and Main Streets and running in an easterly and westerly direction between Barr and Clinton Street in the City of Fort Wayne; in and under the north eight (8) feet of the west one hundred ten (110) feet of the east-west sidewalk lying on the north side of Berry Street and parallel to Berry Street and running in an easterly and westerly direction between Clinton and Barr Streets in the City of Fort Wayne; in and under the south two (2) feet of the east sixty (60) feet of the west one hundred ten (110) feet of an east-west sidewalk lying on the south side of and parallel to Main Street and running in an easterly and westerly direction between Clinton and Barr Street in the City of Fort Wayne, Indiana; and under the east three (3) feet of the south one hundred fifty (150) feet of a north-south sidewalk lying on the east side of and parallel to Clinton Street and running in a northerly and southerly direction between Main and Berry Streets in the said City of Fort Wayne, Indiana.

That the petitioner herein, 203 Berry Corporation, if permission for the construction, installation and maintenance of the ramps and footings hereinabove described is granted, agrees:

1. That the installation, construction and maintenance of the footings and ramps hereinabove described shall be in accordance with plans and specifications submitted to and approved by the Building Inspector of the City of Fort Wayne.

2. The 203 Berry Corporation shall pay or cause to be paid all costs of construction, installation and maintenance of said footings and ramps and will save the City of Fort Wayne harmless against any loss or damage to persons or property occasioned by the said construction and installation except for acts of the City of Fort Wayne or its officers or employees.

3. That the 203 Berry Corporation shall pay all costs of maintenance and repair of said footings and ramps after construction, and installation, and pay all costs of maintenance and repair of the improved alley and sidewalks necessitated by any maintenance or repair work thereafter undertaken upon said footings and ramps.

4. That the 203 Berry Corporation will protect from any and all damage whatsoever occasioned in any way by the construction, installation and maintenance of said footings and ramps, all existing overhead and underground utilities located in said alley or under said sidewalks, including specifically the underground or overhead facilities of the City of Fort Wayne, Indiana, Indiana and Michigan Electric Company, Northern Indiana Public Service Corporation, General Telephone Company of Indiana, the Western Union Company, and Fort Wayne City Utilities; and shall indemnify and save and hold harmless the City of Fort Wayne and the other said utility companies from

and against any and all damage or loss sustained as a result of the construction, installation or maintenance of the footings and ramps hereinabove described.

5. The 203 Berry Corporation will following completion of construction and installation, and following the completion of any maintenance subsequently undertaken upon said footings and/or ramps shall restore and repair the surface of said alley and said sidewalks above described to a condition equivalent to or better than that existing at the time said construction, installation or maintenance is undertaken.

Respectfully submitted,

203 BERRY CORPORATION

BY Louis L. Bloom  
LOUIS L. BLOOM, ASSISTANT  
SECRETARY

NOTICE OF RESOLUTION RESPECTING CONSTRUCTION  
AND MAINTENANCE OF OVERHEAD STRUCTURE

TO WHOM IT MAY CONCERN:

Notice is hereby given that the Board of Public Works of the City of Fort Wayne, Indiana, has adopted a resolution granting a petition of 203 Berry Corporation, owner of the real estate immediately abutting on both sides of an alley between and parallel to Main Street and Berry Street. Said real estate being Lot 87 and Lot 96 in the Original Plat of the Town (now City) of Fort Wayne, Indiana. Said petition requests permission to construct and maintain an overhead structure over a part of said alley, which resolution together with the plans and specifications for said structure are on file with said Board of Public Works. Notice is further given that, on November 12, 1964, at 3:30 o'clock P.M., said Board of Public Works will receive or hear remonstrances from persons interested in or affected by such proceeding and shall consider such remonstrances, if any, and thereupon take final action, confirming, modifying or rescinding its original resolution, which action shall be final and conclusive on all persons.

Dated at Fort Wayne, Indiana, this 21st day of October, 1964.

FRED S. EHRMAN  
ROBERT W. DAHMAN  
GEORGE F. CABLE  
BOARD OF PUBLIC WORKS

ATTTEST: Kenneth McGraw, Clerk

PUBLISH: October 23 and 30, 1964

OFFICE OF  
BOARD OF PUBLIC WORKS



FORT WAYNE 2, INDIANA

47-255-6

B.O. 208-164

Date Nov. 12, 1964

To City Engineer

Subject Dec. Res. 1145-1964 203 Berry Corporation

Prepare the Assessment Roll of Benefits \$1.00 and Damages \$1.00.

Fred S. Ehrman  
Robert W. Dahman  
George F. Gable  
BOARD OF PUBLIC WORKS

ic  
attach Res. & ~~RECEIVED~~

NOTED

- F.S.E.  
 R.W.D.  
 G.F.G.

Signed \_\_\_\_\_

Date

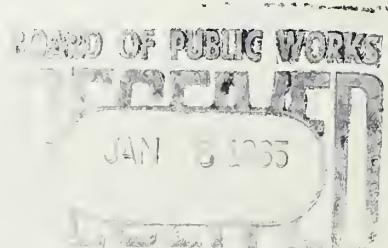
Reply:

January 5, 1964

Assessment Roll of Benefits and Damages completed and attached.

Walter H. Meitz  
City Engineer

DEB:is  
attachs.



Signed

*Walter H. Meitz*

SENDER: REMOVE & KEEP 3RD COPY - RECEIVER: ANSWER & KEEP 2ND COPY - RETURN 1ST COPY

NOV 4 1964

Board of Public Works  
(Governmental Unit)

To..... JOURNAL-GAZETTE

Dr.

Allen ..... County, Ind.

FORT WAYNE, INDIANA

## PUBLISHER'S CLAIM

## LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)  
— number of equivalent lines

Head	number of lines	<u>3</u>
Body	number of lines	<u>28</u>
Tail	number of lines	<u>5</u>
Total number of lines in notice		<u>36</u>

## COMPUTATION OF CHARGES

36	lines, ..... columns wide equals..... equivalent lines at .226¢	\$ 8.14
cents per line		
Additional charge for notices containing rule and figure work (50 per cent of above amount)		
Charge for extra proofs of publication (50 cents for each proof in excess of two)		

TOTAL AMOUNT OF CLAIM 8.14

## DATA FOR COMPUTING COST

Width of single column <u>11<math>\frac{1}{2}</math></u> ems	Size of type <u>5<math>\frac{1}{2}</math></u> point
Number of insertions <u>2</u>	Size of quad upon which type is cast <u>5<math>\frac{1}{2}</math></u>

Pursuant to the provision and penalties of Ch. 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date October 31, 1964 Title..... ASSISTANT SECRETARY

Legal Notices  
**NOTICE OF RESOLUTION RESPECTING CONSTRUCTION AND MAINTENANCE OF OVERHEAD STRUCTURE**  
TO WHOM IT MAY CONCERN:  
Notice is hereby given that the Board of Public Works of the City of Fort Wayne, Indiana, has adopted a resolution granting a petition of 203 Berry Corporation, owner of the real estate immediately abutting on both sides of an alley between and parallel to Main Street and Berry Street, Said real estate being Lot 87 and Lot 96 in the Original Plat of the Town (now City) in the Original Plat of the Town (now City) of Fort Wayne, Indiana. Said petition requests permission to construct and maintain an overhead structure over a part of said alley; which resolution together with the plans and specifications for said structure are on file with said Board of Public Works. Notice is further given that, on November 12, 1964, at 3:30 o'clock P.M., said Board of Public Works will receive or hear remonstrances from persons interested in or affected by such proceeding, and shall consider such remonstrances, if any, and thereupon take final action confirming, modifying or rescinding its original resolution, which action shall be final and conclusive on all persons.  
Dated at Fort Wayne, Indiana, this 21st day of October, 1964.  
FRED S. EHRMAN  
ROBERT W. DAHMAN  
GEORGE F. GABLE  
BOARD OF PUBLIC WORKS  
ATTEST: Kenneth McGraw, Clerk.  
10-23-50.

## PUBLISHER'S AFFIDAVIT

State of Indiana } ss:  
ALLEN County }

Personally appeared before me, a notary public in and for said county and state, the undersigned ARNOLD F. SCHERER, who, being duly sworn, says that he is ASSISTANT SECRETARY of the JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time(s), the dates of publication being as follows:

October 23, 1964

October 30, 1964

Subscribed and sworn to before me this 31st day of October 1964  
Edith Stapleton  
Notary Public

My commission expires March 8, 1966

Claim No..... Warrant No.....

IN FAVOR OF

I have examined the within claim and hereby certify as follows:  
That it is in proper form.  
That it is duly authenticated as required by law.

That it is apparently {  
    Correct  
    Incorrect

\$.....

On Account of Appropriation for

Appropriation No. ....

Allowed. ...., 19 .....

In the sum of \$ .....

I certify that the within claim is true and correct; that the services therein itemized and for which charge is made were ordered by me and were necessary to the public business.

195

TABLE SHOWING PRICE PER LINE AND PER INSERTION FOR

Size of Type	11½ Em Column (138 Points)			
	Number of Insertions			
	1	2	3	4
5½	.151	.226	.301	.376
6	.138	.207	.276	.345
7	.118	.177	.237	.296
7½	.11	.166	.221	.276
8	.104	.155	.207	.259
9	.092	.138	.184	.23
10	.083	.124	.166	.207
12	.069	.104	.138	.173

Note: Above table is based on a square of 250 ems.

February 19, 1965

203 Berry Corporation  
a subsidiary of  
Bloomfield Building Industries, Inc.  
3355 Poplar Avenue  
Memphis, Tennessee 38111

Attention Mr. Frank J. Romeo, Secretary-Treasurer

Gentlemen:

This has reference to your letter making inquiry as to Declaratory Resolution 1145-1964, adopted in connection with the 203 Berry Corporation structure.

When this building was being planned, the Board of Works executed an Agreement permitting the building of the above-ground multiple storage motor vehicle ramps, which agreement was duly recorded. However, our present Law Department discovered that proper procedure had not been taken in accordance with the Indiana Statutes and that the clearance of the overhead structure is less than the statutory minimum. We understand that this matter was further prompted by the attorneys for the insurance companies providing the loan on said building.

The Board then determined that in order to make everything legal it was desirable to adopt a Declaratory Resolution as provided in the Indiana Statutes (48-3106) and hold a public hearing to determine if there were any remonstrances against said project. Proper procedure has now been taken which will clear the matter with the abstract companies.

We transmit herewith for your files the following instruments:

1. Indiana Statutes 48-3106

1145-1964

- 2 -

2. Status Sheet for Declaratory Resolution  
1145-1964
3. Declaratory Resolution
4. Petition of the 203 Berry Corporation

We trust the foregoing information will clear your files  
on this matter.

Very truly yours,

*F. W. T. B. S.*, Clerk

BOARD OF PUBLIC WORKS

KM:ms

enc. 4

February 19, 1965

203 Berry Corporation  
a subsidiary of  
Bloomfield Building Industries, Inc.  
3355 Poplar Avenue  
Memphis, Tennessee 38111

Attention Mr. Frank J. Romeo, Secretary-Treasurer

Gentlemen:

This has reference to your letter making inquiry as to Declaratory Resolution 1145-1964, adopted in connection with the 203 Berry Corporation structure.

When this building was being planned, the Board of Works executed an Agreement permitting the building of the above-ground multiple storage motor vehicle ramps, which agreement was duly recorded. However, our present Law Department discovered that proper procedure had not been taken in accordance with the Indiana Statutes and that the clearance of the overhead structure is less than the statutory minimum. We understand that this matter was further prompted by the attorneys for the insurance companies providing the loan on said building.

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We transmit herewith for your files the following instruments:

1. Indiana Statutes 48-3106

- 2 -

2. Status Sheet for Declaratory Resolution  
1145-1964
3. Declaratory Resolution
4. Petition of the 203 Berry Corporation

We trust the foregoing information will clear your files  
on this matter.

Very truly yours,

Kenneth M. Graw, Clerk  
BOARD OF PUBLIC WORKS

KM:ms

enc. 4 + a stack of L's

C O P Y

BURNS INDIANA STATUTES - ANNOTATED

9 - PART 1 - Municipal Corporations

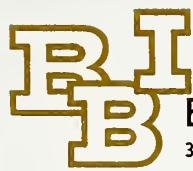
48-3106 (10480.1) Cities of first, second, and third classes - Restrictions - Procedure. - The board of public works of any city of the first, second and third class shall have the power to determine that the construction and maintenance of underground structures under the surface of any part of any street or alley and the construction and maintenance of overhead structures over any part of any street or alley would or would not be detrimental to or inconsistent with the free use of the easement of the public in such street or alley, or that such underground and overhead structures or either or both of them would or would not be beneficial to the public by permitting private passageways under and over any part of any street or alley which would relieve the congestion and traffic on public streets and alleys. Such power shall only be exercised by the board of public works upon a petition in writing being filed with it signed by the owner or owners of all the real estate immediately abutting on both sides of that part of such street or alley described in such petition and as such owners of the real estate constituting that part of said street or alley described in said petition subject only to the easement of the public therein and for proper highway purposes, requesting the permission to construct underground structures connecting all or any part of the real estate abutting on both sides of that part of such street or alley described in said petition or the construction of overhead structures connecting all or any part of the real estate abutting on both sides of that part of such street or alley described in said petition. If the board of public works of any such city shall determine that such underground or overhead structures would not be detrimental or inconsistent with the free use of the easement of the public or would be beneficial to the public and shall desire to grant any such petition, it shall adopt a resolution to that effect, describing that part of such street or alley described in such petition and real estate which may be injuriously or beneficially affected, and shall cause notice of such resolution to be published in a newspaper of general circulation published in such city once each week for two (2) consecutive weeks. Such notice shall name a date, not less than ten (10) days after the last publication, at which such Board will receive or hear remonstrances from persons interested in or affected by such proceeding. Such board shall consider such remonstrances, if any, and thereupon take final action, confirming, modifying or rescinding its original resolution, which action shall be final and conclusive on all persons. Such board of public works shall have the power to regulate the construction of structures contemplated by this act: Provided, That no part of any overhead structures shall be constructed below sixteen (16) feet above the surface of such street or alley measured in perpendicular lines (Acts 1927, ch. 168, Section 1, p. 509.)

C O P Y

BURNS INDIANA STATUTES - ANNOTATED

9 - PART 1 - Municipal Corporations

48-3106 (10480.1) Cities of first, second, and third classes - Restrictions - Procedure. - The board of public works of any city of the first, second and third class shall have the power to determine that the construction and maintenance of underground structures under the surface of any part of any street or alley and the construction and maintenance of overhead structures over any part of any street or alley would or would not be detrimental to or inconsistent with the free use of the easement of the public in such street or alley, or that such underground and overhead structures or either or both of them would or would not be beneficial to the public by permitting private passageways under and over any part of any street or alley which would relieve the congestion and traffic on public streets and alleys. Such power shall only be exercised by the board of public works upon a petition in writing being filed with it signed by the owner or owners of all the real estate immediately abutting on both sides of that part of such street or alley described in such petition and as such owners of the real estate constituting that part of said street or alley described in said petition subject only to the easement of the public therein and for proper highway purposes, requesting the permission to construct underground structures connecting all or any part of the real estate abutting on both sides of that part of such street or alley described in said petition or the construction of overhead structures connecting all or any part of the real estate abutting on both sides of that part of such street or alley described in said petition. If the board of public works of any such city shall determine that such underground or overhead structures would not be detrimental or inconsistent with the free use of the easement of the public or would be beneficial to the public and shall desire to grant any such petition, it shall adopt a resolution to that effect, describing that part of such street or alley described in such petition and real estate which may be injuriously or beneficially affected, and shall cause notice of such resolution to be published in a newspaper of general circulation published in such city once each week for two (2) consecutive weeks. Such notice shall name a date, not less than ten (10) days after the last publication, at which such Board will receive or hear remonstrances from persons interested in or affected by such proceeding. Such board shall consider such remonstrances, if any, and thereupon take final action, confirming, modifying or rescinding its original resolution, which action shall be final and conclusive on all persons. Such board of public works shall have the power to regulate the construction of structures contemplated by this act: Provided, That no part of any overhead structures shall be constructed below sixteen (16) feet above the surface of such street or alley measured in perpendicular lines (Acts 1927, ch. 168, Section 1, p. 509.)



BLOOMFIELD BUILDING INDUSTRIES, INC.

3355 POPLAR AVE. • MEMPHIS, TENN. 38111 • 324-7195

NOTED

F.S.E.

R.W.D.

G.F.G.

Date \_\_\_\_\_

February 16, 1965

BOARD OF PUBLIC WORKS

RECEIVED  
FEB 17 1965  
RECEIVED

Department of Public Works  
Room 101, City Hall  
Fort Wayne, Indiana

Gentlemen:

The 203 Berry Corporation owns real estate in your city known as the Anthony Wayne Bank Building. In the past, notices regarding any action by your office, as it would relate to this property, have been forwarded in care of Mr. Louis Bloom at 1514 Anthony Wayne Bank Building in your city. Would you please, in the future, direct any such notices to my attention at the above address.

One of the reasons for this is that a Notice of Assessment resulting from Declaratory Resolution No. 1145-1964 left at Mr. Bloom's office on January 12, 1965, was not received by us until February 4, 1965, which was the date set for the hearing. As you can appreciate, this gave us no time in which to respond to the notice.

It would also be appreciated if you could forward to us a copy of Declaratory Resolution No. 1145-1964 adopted by the Board of Public Works on the 21st day of October, 1964. This would be helpful to us in understanding what the purpose of the notice is.

We appreciate your cooperation in working with us on the above.

Sincerely,

203 BERRY CORPORATION,  
a subsidiary of  
BLOOMFIELD BUILDING INDUSTRIES, INC.

Frank J. Romeo, Secretary-Treasurer

FJR:j1

cc: Mr. Louis Bloom

MEMO TO Kenneth McGraw  
FROM PAUL W. PHILIPS

DATE \_\_\_\_\_

Thanks.

PWP



BLOOMFIELD BUILDING INDUSTRIES, INC.

3355 POPLAR AVE. • MEMPHIS, TENN. 38111 • 324-7195

February 26, 1965

Rec Rec 1145

Mr. Kenneth McGraw,  
Board of Public Works  
City of Fort Wayne  
Fort Wayne, Indiana

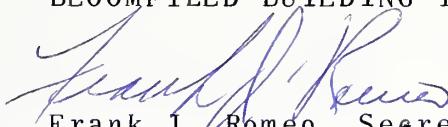
Dear Mr. McGraw:

Thank you very much for your letter of February 19 and the enclosures included with it.

It certainly should clear the matter up for me and we appreciate very much your handling it in such a prompt manner for us.

Yours very truly,

BLOOMFIELD BUILDING INDUSTRIES, INC.

  
Frank J. Romeo

Frank J. Romeo, Secretary-Treasurer

FJR:j1



Board of Public Works  
(Governmental Unit)

To.....NEWS-SENTINEL NOV. 4 1964

Allen ..... County, Ind.

FORT WAYNE, INDIANA

## PUBLISHER'S CLAIM

## LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)  
— number of equivalent lines

Head	number of lines	<u>3</u>
Body	number of lines	<u>28</u>
Tail	number of lines	<u>5</u>
Total number of lines in notice		<u>36</u>

## COMPUTATION OF CHARGES

<u>36</u> lines,.....columns wide equals.....equivalent lines at <u>.226¢</u>	\$ <u>8.14</u>
Additional charge for notices containing rule and figure work (50 per cent of above amount)	
Charge for extra proofs of publication (50 cents for each proof in excess of two)	
<b>TOTAL AMOUNT OF CLAIM</b>	<b>\$ <u>8.14</u></b>

## DATA FOR COMPUTING COST

Width of single column..... <u>11½</u> ems	Size of type..... <u>5½</u> point
Number of insertions..... <u>2</u>	Size of quad upon which type is cast..... <u>5½</u>

Pursuant to the provision and penalties of Ch. 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date.....October 31, 1964

Title.....SECRETARY-TREASURER

## PUBLISHER'S AFFIDAVIT

State of Indiana } ss:  
.....ALLEN County }

Personally appeared before me, a notary public in and for said county and state, the undersigned.....MARTHA L. BRANNING.....who, being duly sworn, says that.....She is.....SECRETARY-TREASURER.....of the NEWS-SENTINEL.....

a.....DAILY.....newspaper of general circulation printed and published in the English language in the city of.....FORT WAYNE, INDIANA.....in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for.....2 time.....S the dates of publication being as follows:

October 23, 1964

October 30, 1964

**NOTICE OF RESOLUTION RESPECTING CONSTRUCTION AND MAINTENANCE OF OVERHEAD STRUCTURE**  
TO WHOM IT MAY CONCERN:  
Notice is hereby given that the Board of Public Works of the City of Fort Wayne, Indiana, has adopted a resolution granting a petition of 203 Berry Corporation, owner of the real estate immediately abutting on both sides of an alley between and parallel to Main Street and Berry Street. Said real estate being Lot 87 and Lot 96 in the Original Plat of the Town (now City) of Fort Wayne, Indiana. Said petition requests permission to construct and maintain an overhead structure over a part of said alley, which resolution together with the plans and specifications for said structure are on file with said Board of Public Works. Notice is further given that, on November 12, 1964, at 3:30 o'clock P.M., said Board of Public Works will receive or hear remonstrances from persons interested in or affected by such proceeding and shall consider such remonstrances, if any, and thereupon take final action confirming, modifying or rescinding its original resolution, which action shall be final and conclusive on all persons.  
Dated at Fort Wayne, Indiana, this 21st day of October, 1964.  
FRED S. EHRMAN  
ROBERT W. DAHMAN  
GEORGE F. GABLE  
BOARD OF PUBLIC WORKS  
ATTEST: Kenneth McGraw, Clerk.  
10-23-30.

Subscribed and sworn to before me this.....31st.....day of.....October.....19.....64

Edith Stapleton /

Notary Public

My commission expires.....March 8, 1966

Claim No..... Warrant No.....

IN FAVOR OF

I have examined the within claim and hereby certify as follows:  
That it is in proper form.  
That it is duly authenticated as required by law.  
That it is apparently } Correct  
} Incorrect

\$ .....

On Account of Appropriation for

Appropriation No.....

Allowed....., 19.....

In the sum of \$ .....

TABLE SHOWING PRICE PER LINE AND PER INSERTION FOR

Size of Type	11½ Em Column (138 Points)			
	Number of Insertions			
	1	2	3	4
5½	.151	.226	.301	.376
6	.138	.207	.276	.345
7	.118	.177	.237	.296
7½	.11	.166	.221	.276
8	.104	.155	.207	.259
9	.092	.138	.184	.23
10	.083	.124	.166	.207
12	.069	.104	.138	.173

Note: Above table is based on a square of 250 ems.